

November 21, 2003

Thomas E. Kelly, Jr.
Preston Gates Ellis
925 Fourth Ave., Ste 2900
Seattle, WA 98104-1158

RE: Concerns regarding circumstances of release of OIC Staff Reports

Dear Mr. Kelly:

This will respond to your letter of today's date regarding the above-referenced subject.

As I am sure you are aware, the Office of the Insurance Commissioner ("OIC"), as a state agency, is subject to the Public Records Act of RCW 42.17. Some time ago, we received a public records request from a Seattle Times reporter, seeking the OIC Staff's expert reports. We responded to that request that we could not provide those reports until the confidential portions had been determined and redacted.

As required by the Commissioner's Nineteenth Order, Premera provided redacted versions of the OIC Staff's expert reports by close of business yesterday, November 20. Those redacted reports are undeniably public records and we are required by law to provide them in response to requests from the public. The Seattle Times reporter called shortly after our receipt of those redacted reports, stated that she was aware they were in our possession, and asked that we then honor her earlier public record request. As those reports were at that point clearly public, and the public records request had been made some time before, we were obligated to provide the requested material.

With respect to the points made in your letter, I want to assure you that the version provided to the reporter was the version supplied by your office. Next, while I understand that this means of dissemination is not what Premera desires, we believe it is required by the Public Records Act. As such, it is not a "leak" to a single member of the media, but a requisite response to a public records request from a member of the public, albeit a media member of the public. While Premera is certainly free to provide copies of its reports, the process that is being followed by OIC with respect to posting materials on its website is that reports will be posted once the Special Master has ruled on the requested redactions, to avoid duplicative and possibly confusing seriatim postings.

I do not agree that compliance with the agency's Public Records Act requirements demonstrates bias and prejudice by the OIC staff and trust that you will reconsider your allegations in this regard. After we responded to the reporter yesterday evening, it is my

understanding that the reporter also contacted Premera yesterday evening and Premera has thus had a full and fair opportunity to provide its reports and its perspective.

Finally, the OIC Public Affairs staff does attempt to notify Premera's Communications staff of significant media events. However, in this instance, Premera was aware that OIC planned to make its Staff reports public when the public version of those reports was determined and, as Premera supplied that version, it seemed unnecessary in this instance to notify Premera of a specific release of that information. Nonetheless, in the future we will continue to attempt to notify Premera of significant events so that it is not taken unaware.

Very truly yours,

Carol Sureau
Deputy Commissioner Legal Affairs

Cc: